

MEMO ENDORSED

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William J. Beinin
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October 31, 2022

Hon. Edgardo Ramos
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Vargas v. Dipilato
21 cv 3884 (ER)

Plaintiff's request to renew the motion for default judgment is granted. Defendant will respond as directed in the procedure. SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: October 31, 2022
New York, New York

Dear Judge Ramos:

Reference is made to the Court's Order dated October 31, 2022 regarding Plaintiff's request to renew his application for default judgment against Defendants. Application is hereby made that the Court consider the letter a motion to reargue or provide clarification of its Order as same relates to Defendant Dipilato.

It is incontrovertible this Honorable Court never acquired personal jurisdiction over Mr. Dipilato. Undisputed facts relating to this conclusion were set forth in the October 26th status letter to the Court. Not only has Mr. Dipilato resided outside the State of New York since December 2020, the affidavit of service on Dipilato was deemed defective by the Court. Plaintiff's motion for an alternate service conference was also denied. Renewal of that application upon a demonstration efforts were made by Plaintiff at personal service and/or nail or mail service were never attempted. By reason of the foregoing, participation by Dipilato in the formulation of a discovery plan is unwarranted.

Accordingly, we respectfully request the Court address this issue prior to renewal of the motion against Mr. Dipilato.

Respectfully Submitted,


MARK D. HERMAN

cc: David Abrams, Esq.
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